

Director's Report and Recommendations Proposed Land Use Code Amendments related to On-Premise Signs

Introduction

The City Council is proposing to amend the Land Use and Building Codes to adopt standards for wall signs in commercial, industrial and downtown zones and to close a “loophole” in the City’s Sign Code by amending definitions of certain signs in the Land Use and Building Codes. The proposed legislation also increases the maximum penalties for violations of certain sign provisions in the Land Use and Building Codes. The Department of Planning and Development (DPD) has prepared this Director’s Report at the request of Council.

The City generally bans all signs, including off-premises signs (also known as advertising signs), because they contribute to driver distraction and visual blight. However, the City makes some exceptions to advance other purposes, such as allowing on-premise business signs to promote local business vitality. Currently, there are no size/area limits for on-premises signage in downtown, commercial and industrial zones. Over the last few years, the City has seen an increase in the number of very large on-premises wall signs located in these areas, some of which far exceed the size of billboards. The City banned new billboards many years ago based on their distraction to motorists and pedestrians and creation of visual blight. Among the primary goals of the Sign Code are to 1) allow signs that promote certain public goals, including promoting local business vitality, and 2) encourage the placement of signs that enhance the visual environment of the city without impairing public health or safety.

The intent of this legislation is to improve the consistency of the Sign Code by clarifying the distinction between on-premises and off-premises signage and adopting new standards for wall signs that reduce driver distraction and visual blight while promoting business vitality. The legislation will also restore the connection between a business establishment and any on-premises wall sign associated with it by requiring the name and location of the business to appear on the face of the sign. This will further local business vitality by making it clear where a particular business is located and where the products or services featured on such a sign can be purchased. Wall signs under the proposed legislation will continue to enhance the visual environment of the city while also providing a means to convey information about such businesses.

The proposed legislation will also reduce traffic impacts from wall signs by adopting a reasonable area standard that prohibits the placement of very large on-premises wall signs in industrial, downtown and commercial areas of the city. Additionally, the legislation will require a predominant feature of such signs to be the name and location of the associated business establishment, or, alternatively, a non-commercial message. The wall sign standards will help reduce visual blight because they establish a maximum wall sign size that is significantly smaller than a number of the on-premises wall signs that have requested permits in recent years. This ordinance is therefore consistent with the Sign Code because it

promotes the legitimate public purposes of identifying and promoting businesses while also protecting public health and safety by reducing driver distraction and visual blight.

Background and Analysis

Chapter 23.55 of the Land Use Code (the “Sign Code”) contains provisions for signs. Sign standards, including area limits, and the types of signs allowed on individual properties are, in most cases, provided according to zoning designations. Section 23.86A.036 contains full definitions of all types of signs.

The City generally bans all signs, including off-premises signs (also known as advertising signs), because they contribute to driver distraction and visual blight. The City makes some exceptions to advance other purposes, such as allowing on-premises business signs to promote local business vitality. The City also allows non-commercial speech on signs. Section 23.55.001 describes the intent of the City’s Sign Code as follows:

- A. To encourage the design of signs that attract and invite rather than demand the public's attention, and to curb the proliferation of signs;*
- B. To encourage the use of signs that enhance the visual environment of the city;*
- C. To promote the enhancement of business and residential properties and neighborhoods by fostering the erection of signs complementary to the buildings and uses to which they relate and which are harmonious with their surroundings;*
- D. To protect the public interest and safety;*
- E. To protect the right of business to identify its premises and advertise its products through the use of signs without undue hindrance or obstruction; and*
- F. To provide opportunities for communicating information of community interest.*

The Comprehensive Plan includes specific policies about signs under the heading of General Development Standards in the Land Use Element. In addition, the neighborhood planning policies for the Downtown Urban Center include sign policies. These policies, which are applicable to the proposed legislation, are as follows:

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Regulate signs to facilitate adequate identification of businesses, reduce visual clutter, protect the public interest, provide opportunities for communicating information of community interest, and enhance the city’s appearance and safety. Adapt provisions to correspond with the character and scale intended for each area.

Downtown Urban Design Policy 12 - Regulate signs to:

- *Allow adequate identification of businesses and allow businesses to advertise their products;*
- *Add interest to the street level environment;*
- *Protect public safety;*
- *Reduce visual clutter; and*

- *Enhance the appearance and safety of the downtown area.*

As noted above, the City bans all signs, absent some exceptions, because signs are considered to contribute to the aesthetic impacts of the built environment as well as to driver distraction. As will be discussed below, one type of sign permitted under the Sign Code is on-premises signs. The City has determined, and Courts have agreed, that the City has a substantial interest in allowing companies to advertise the goods or services they provide onsite. New on-premises signs are therefore allowed in commercial, industrial and downtown zones; however, new off-premises signs are prohibited in all zones.

Generally, on-premises signs are signs that display a good, service or product offered by a business establishment on the lot where the sign is located. The commercial messages that are displayed are strictly applicable to a use of the premises on which the sign is located. In contrast, off-premise signs are signs relating to a business activity, use, product or service not available on the premises upon which the sign is erected. Off-premises signs are also known as advertising signs. On-premises signs may also carry a non-commercial message; however, signs on which non-commercial messages are placed must still conform to all regulations for on-premises signs (such as size, location and dispersal regulations, if applicable).

One of the rationales for allowing on-premises signs under the City's Sign Code is that on-premises signs are intended to help people find the businesses and services available on a site and to increase sales at these businesses. However, over the last three and a half years, DPD has received more than 200 sign complaints, many of which involved on-premises signs being used inconsistently with the terms of their on-premises permit, or for off-premises purposes.

DPD analysis shows that use of large wall signs, seeking permits as on-premises signs but appearing more like off-premises advertising signs, has increased over the past five years. This has on occasion occurred when sign companies contract with building owners to install signs that advertise products without a clear link to a business establishment on the lot. It is unknown if business establishments receive much, if any, benefit from such signs but DPD's communications with these business establishments suggest many have very little interest, if any, in the signs being displayed. Rather, DPD has learned that it is often the building owner that receives the contract revenue from the advertising agencies placing the signs. This was highlighted in a recent Crosscut article entitled "Loopholes in Seattle's sign ordinance are brazenly exploited", written by Eric Scigliano and published on June 15, 2011, included as Attachment A.

One "loophole" utilized by some advertising firms has been to have building owners recruit on-site businesses to act as "fronts" for an off-site advertiser (usually national). In order to obtain an on-premises sign permit from the City, the sign must be "used solely by a business establishment on the lot where the sign is located" and must be for business transacted, principal services rendered, goods sold or produced on the premises, or to identify the name of the business occupying the premises. To meet this standard, some advertising companies will at no charge, post the name of an on-premises business establishment on a large wall sign advertising a product that has little or no real connection with the business.

To be eligible to obtain a permit for an on-premises sign, a business often keeps small quantities of the product being advertised on the wall sign or merely sells gift cards or gift certificates for the product being advertised. Another approach that is used to establish eligibility for an on-premises sign permit is to describe signs as “noncommercial free speech messages” that promote nonprofit agencies or causes such as the Seattle Aquarium, Oregon Museum of Science, Pacific Science Center or the Montana Office of Tourism, even though these agencies pay for the sign placement and the signs essentially function as advertising.

In addition, the sign industry has advanced beyond wall signs mounted on wooden or steel frames as contemplated when the current sign regulations were adopted. The industry now makes wide use of printed vinyl banners of virtually unlimited size, hung to form instant “wallscapes.” The size and design of many of these signs are intended to attract the attention of pedestrians, bus riders and motorists. In fact, advertising agencies frequently include the number of individuals who will view a particular sign in their pricing schemes. However, these signs that are intended to attract motorists can be distracting to drivers due to their size and design. One advertising company clearly states in their marketing materials that their wall sign sites in downtown Seattle “have tremendous highway, surface street & Stadium traffic” and are visible to “commuter and local traffic on the heavily utilized Highway 99 Viaduct, the main southbound Hwy 99 off-ramp to Qwest and Safeco fields, 1st Ave S, [and] Occidental Ave S.” Other marketing claims made by such companies include describing large wall signs as “bigger and bolder outdoor advertising inventory” and promoting a 1,200 square foot sign as a “spectacular” product that “dwarfs our competition”. The cost of fabricating vinyl wall signs is also relatively low and results in a product with high image quality that can be installed with ease and speed. The Department has prepared a file containing some examples of large wall signs that technically meet the requirements for on-premises signs, as well as wall signs that sought to be permitted as on premises signs, but were determined to clearly be off-premises advertising.

The ordinance makes the following changes to the Code, each of which will be addressed in this analysis:

- Provide size limits for on-premises wall signs;
- Require the name and location of the business establishments sponsoring on-premises wall signs to be identified on wall signs;
- For commercial wall signs, require the name and location of the business establishments to be at least half of the area of the wall sign;
- Clarify the definitions of various signs including, wall signs, on-premises signs, roof signs and combination signs;
- Increase penalties for violations of certain sign provisions in the Building Code and Land Use Code; and

Allow a one-year period before all non-conforming wall signs must comply with this legislation. In addition, the ordinance requires a report to Council on the outcomes of the legislation after one year.

Size limits for on-premises wall signs.

While provisions for on-premises wall signs in residential zones include area limits, such limits are absent from commercial, industrial and downtown zones. There are several locations throughout the city, particularly in downtown (including Pioneer Square and the International District), commercial and industrial zones, where buildings constructed at or near property lines have large blank walls. Over the last few years, very large wall signs have increased in frequency in these areas – and so have the number of complaints received by DPD regarding associated sign code violations. Therefore, this proposal applies to wall signs in commercial, industrial and downtown zones.

DPD examined wall sign permit data collected by the Department over the last few years and found that approximately 90 percent of the more than 1200 on-premises sign permits issued by DPD are for signs well under 100 square feet in area. The average area for on-premises wall signs issued during that same period is only 73 square feet. There are, however, increasing numbers of very large wall signs, including signs in excess of 1,500 square feet (more than double the size of a large billboard) or even wall signs larger than 3,000 square feet in area (which is more than four times the size of a large billboard). While these may be a relatively small percentage of all sign permits, the impact, due to size, has been significant. Therefore, the proposal is to limit all on-premise wall signs in a consistent manner using a 100 square foot area limit.

This proposal is consistent with the majority of on-premises wall signs posted throughout the City and is more aligned with Comprehensive Plan policies and Code intent statements related to the appearance, character and scale of signs in the city's neighborhoods. Restricting wall sign size will also reduce traffic hazards which may be caused by large wall signs that distract the attention of motorists and pedestrians. Imposing reasonable area limits for wall signs will also enhance the appearance of public streets and thoroughfares by reducing visual blight.

Requirement to include the name and location of the business establishment.

The proposal includes a requirement that the name and location of the business associated with the sign be given equal prominence to any products or services that are included on the sign. The current Sign Code lacks clear provisions about identifying the name and location of the business providing the goods or services displayed on a sign. This leads to a situation where signs may be erected without a clear connection between the commercial message and the sponsoring business establishment. Confusion for the public is compounded when the sign does not identify where the product, good or service can be found in a building. This proposal will restore the linkage between the goods and services displayed on a sign and the business that offers them. This linkage is consistent with Comprehensive Plan policies and Code intent statements related to the use of signage for business identification purposes and communicating information to the public. It will also help to protect the public interest by supporting local business vitality and make it easier for the public to find a particular business that is offering a product or service displayed on a wall sign.

Clarify definitions of certain signs.

The legislation clarifies several definitions, including the definition of an on-premises sign. The proposed legislation includes language utilized by the State in distinguishing between an on-premises and off-premises sign and clarifies that if rental income is obtained as a result of the sign, it is considered an off-premises sign. As noted above, some applicants seeking a sign permit describe a sign as “noncommercial free speech messages” that promote nonprofit agencies or causes such as the Montana Office of Tourism, even though these agencies pay for the sign placement and the sign essentially functions as advertising. The current definition of on-premises sign requires that the sign be used solely by the business establishment; this language is meant to prevent advertising signs where revenue is paid to display such signs, including those advertising signs that display a cause or agency. The proposed legislation makes the distinction more explicit and follows the federal and state distinctions between on-premises and off-premises sign and will close an identified “loophole.” The legislation also amends the definitions of wall signs, roof signs and combination signs to make them more consistent with the intent of the Sign Code.

Increased penalty amount for violations.

The proposal would establish increased penalties for violations of the wall sign size restriction and other proposed standards. The City has learned that advertising income for wall signs can be as high as \$10,000 to \$30,000 per month, depending on size and location of the sign. In cases where buildings have two large, highly visible wall signs posted, collected income can be upwards of \$50,000 to \$60,000 per month. Thus, current penalty amounts of \$500 per day are too low to act as a deterrent to prevent violations of the Sign Code and the Building Code. Penalties must be more than just the cost of doing business for sign installers or advertisers and are therefore proposed to be increased from \$500 per day to \$1,000 per day, per sign violation, for each day the violation exists. This increase in penalties applies to the 100 square foot limitation as well as utilizing an on-premises sign for off-premises purposes.

Amortization period.

The proposal includes a phase-in or amortization period whereby all existing, legally permitted, on-premises wall signs that do not comply with the new standards included in the legislation will be deemed non-conforming and allowed to remain up for no more than one year after the effective date of the legislation. This phase-in period does not apply to applicants seeking a new on-premises wall sign permit after the effective date of this legislation. After the year expires, all non-conforming on-premises wall signs must be made to conform to the provisions in the proposed legislation or be removed. This amortization period is intended to allow building owners and businesses to recoup the benefit of their investment in existing signs before taking them down or modifying them to comply with the legislation. Some cost information provided by sign companies indicates:

- The cost to fabricate and install a vinyl wall sign ranges from \$7 per square foot to \$31 per square foot. According to industry information, vinyl signs are typically guaranteed to last for one year and are generally used for that period of time.

- The cost to produce a painted wall sign may involve a flat fee ranging from \$1,500 to \$3,500 or be calculated on a square footage basis, with rates varying from \$3 to \$13 per square foot.

Given the relatively low cost of manufacturing and installing large wall signs compared to the rents that are collected, the proposed phase-in period should allow for such costs to be recovered.

The following table includes a brief description of all of the amendments by Seattle Municipal Code Section in the order presented in the legislation:

Code Section	Description of proposed change
23.55.030 Signs in NC3, C1, C2 and SM zones	<p>Provides an area limit of 100 square feet for on-premises wall signs in the Neighborhood Commercial 3, Commercial 1 and 2, and Seattle Mixed zones.</p> <p>Provides that the name and location of the business establishment offering the products or services displayed must be included on all commercial wall signs.</p> <p>Adds a requirement that at least 50% of the area of on-premises commercial wall signs be devoted to identifying the name and location of the associated business.</p>
23.55.034 Signs in downtown zones	Adds the same standards as proposed for 23.55.030 while maintaining existing exceptions for signs identifying hotels and public buildings.
23.55.036 Signs in IB, IC, IG1 and IG2 zones.	Adds the same standards as proposed for 23.55.030 while maintaining existing exceptions, including those for signs on spectator sports facilities.
23.55.042 Off-premises and business signs adjacent to certain public highways	Amends sign area limits to be consistent with the 100 square foot area limit proposed throughout this legislation.
23.84A.036 “S” (definitions for terms beginning w/ “s”)	<p>Clarifies the definition of wall sign to include additional types of signs, including those projected onto a wall or suspended from a roof.</p> <p>Clarifies the definition of roof sign to include signs that are attached to and principally supported by the roof.</p> <p>Clarifies the definition of combination sign to remove a reference to freestanding signs.</p>

Code Section	Description of proposed change
	Clarifies that the definition of on-premises signs does not include signs that bring rental income to the property where the sign is located.
23.66.160 Signs (in the Pioneer Square Special Review District)	Adds the same standards as proposed for 23.55.030. Adopts a provision that allows the Special Review District Board and the Director of Department of Neighborhoods to determine whether the appropriate size of certain wall signs in the District may be less than 100 square feet in area, consistent with factors contained in 23.66.160.c.4.
23.66.338 Signs (in the International Special Review District)	Adds the same standards as proposed for 23.55.030.
23.90.018 Civil Enforcement Proceedings and Penalties	Establishes a civil penalty of up to \$1,000 per day for each violation of the provisions of subsections 23.55.030.E.3.a.iii, 23.55.030.E.3.b, 23.55.034.D.2.a, 23.55.036.D.3.b, 23.55.042.C.1, 23.84A.036 by using an on-premises sign for off-premises advertising, 23.66.160.C.2, or 23.66.338.D.4 of the Land Use Code from the date the violation begins until compliance is achieved. Establishes a subfund whereby penalties acquired through enforcement of size limitations for wall will be directed to Department of Planning and Development's Operations Division to be used for additional enforcement.
103.5 and 103.5.1 Seattle Building Code (2009)	Increases the civil penalty for failing to comply with section 3107.4.1 of the Building Code to \$1,000 per day from the date the violation begins until compliance is achieved, which is consistent with the civil penalty proposed for violations of Land Use Code Sections 23.55.030.E.3.a.iii, 23.55.030.E.3.b, 23.55.034.D.2.a, 23.55.036.D.3.b, 23.55.042.C.1, 23.84A.036 by using an on-premises sign for off-premises advertising, 23.66.160.C.2, or 23.66.338.D.4.
3107.3 Seattle Building Code (2009)	Clarifies the definition of wall sign to include new types of signs, including those projected onto a wall or suspended from the roof. Clarifies the definition of roof sign to include signs that are attached to and principally supported by the roof. Clarifies that the definition of on-premises sign does not include signs that bring rental income to the property.

Code Section	Description of proposed change
23.55.017 Amortization of on-premises wall signs	Adds a new Code section allowing a phase-in or amortization period whereby existing, legally permitted, on-premises wall signs that exist at the time the legislation is adopted are allowed to remain up for no more than one year after the effective date of the legislation. This phase-in period does not apply to applicants seeking a new on-premises wall sign permit after the effective date of this legislation.

Recommendation

The proposed amendments are intended to 1) allow commercial and non-commercial messages to be displayed on on-premises wall signs within reasonable area limits; 2) restore the link between the goods and services displayed on a sign and the name and location of the business establishment offering those goods and services; and 3) provide for more meaningful penalties when violations occur. The proposed ordinance also includes a requirement that DPD report back to the Council on the outcomes of the legislation after it is in effect for approximately one year. DPD recommends approval of the proposed amendments.